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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,608	01/11/2002	Pascale Tardieu	ESSR:059US/MBW	9440

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EXAMINER

SANDERS, KRIELLION ANTIONETTE

ART UNIT PAPER NUMBER

1714

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/044,608

Applicant(s)

TARDIEU ET AL.

Examiner

Kriellion A. Sanders

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 31-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1714

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-~~65~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/50436 In view of Keita et al, US Patent No. 5,702,825 EP 224,123 and Gupta et al, US Patent No. 5,914,174.

The World patent discloses the use of mini emulsions for formation of ethylenically unsaturated polymer latexes. Monomers such as acrylic acid esters are combined with a Cobalt-containing chain transfer agent and formed into an aqueous solution. A hydrophobe may also be included in the composition to minimize the diffusion of the oil phase from small to large droplets. The hydrophobe may be an alkane, fatty alcohol or other species. See pages 1-3.

Keita et al discloses polymers useful for ophthalmic lens formation produced by reaction of ethylenically unsaturated monomers including one of formula IV which directly corresponds to applicants stabilizing agent and cyclohexene compound when R<sub>5</sub>, R<sub>6</sub>, or R<sub>7</sub> form a cyclohexene ring. Patentee indicates that polymerization may be effected in a known manner. Therefor, polymerization via a mini emulsion method as set forth in the World patent would have been obvious to one of ordinary skill in the art at the time of applicant's invention absent a clear showing of unexpected results attributable to the process of polymerization. See columns 1-4. The EP reference documents that polymers formed for ophthalmic lens production often are yellowed in color and that this yellowing may be decreased by employing a cyclohexene compound in the polymeric composition.

Art Unit: 1714

See pages 1-10. Gupta discloses polyacrylate compositions for ophthalmic lens formation wherein a layer of the polymer is applied to a mold and dried. This is considered a conventional process for lens formation and use of his process is considered obvious.

See col. 1, line 5 through col. 3, line 3.

Any inquiry concerning this communication should be directed to Kriellion A. Sanders at telephone number 703-308-2435.



Kriellion A. Sanders  
Primary Examiner  
Art Unit 1714